

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUMMARY SUIT NO.1554 OF 2004**

Devilal Chunilal Jain .. Plaintiff

versus

Usman Khan Suleman Dawood .. Defendant

...

Mr.B.N.Shah i/b Mr.P.I.Vakil for Plaintiff.

None for Defendant

CORAM : D.G. KARNIK, J

DATED : 16th February, 2005.

P.C:-

1. Heard learned counsel for the plaintiff. None for the defendant. The plaintiff has filed this suit for recovery of the principal sum of Rs.85,000/- lent and advanced by it to the defendant and interest thereon. Learned counsel for the plaintiff has filed on record the affidavit of service dated 17th December, 2004 and has also filed on record the original documents. The documents are collectively marked Exhibit A for identification.

2. Despite service of the writ of summons the defendant has not filed an appearance. Hence the plaintiff is entitled to a decree under sub-rule 3 of Rule 2 of Order 37 of the Code of Civil Procedure.

3. I have perused the original documents produced which include the original promissory note and its translation, copies of notice of demand and certificate of posting under which it was posted. The plaintiff has also filed xerox copy of the money lending licence. In the circumstances, in the absence of any appearance from the defendant suit of the plaintiff is decreed under order 37 Rule 2 (3) of the Code of Civil Procedure as follows :

" The defendant shall pay to the plaintiff a sum of Rs.87,500/- together with interest at 6 % p.a. from the date of the suit till payment and all costs of the suit. Issue court fee refund certificate as per rules."

D.G.KARNIK, J